

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

EUGENE M. BROWN
ADC # 88853

PLAINTIFF

v.

2:14CV00146-BSM-JJV

J. SIMMONS, Doctor, EARU, ADC; *et al.*

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to Chief United States District Judge Brian S. Miller. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before either the District Judge or Magistrate Judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is

granted) was not offered at the hearing before the Magistrate Judge.

3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Eugene Brown (“Plaintiff”) began this action on December 17, 2014, by filing a Complaint (Doc. No. 2) and an Application to Proceed Without Prepayment of Fees and Affidavit (“Application”) (Doc. No. 1). On December 23, 2014, the Court granted his Application and notified him that his Complaint was deficient - he was allowed thirty days to file an amended complaint. (Doc. No. 3.) Plaintiff was warned that failure to comply with the Court’s Order might result in the dismissal of this action without prejudice. (*Id.*)

Mail to Plaintiff has been returned to the Court as undeliverable since December 23, 2014. (Doc. Nos. 4, 5, 6, 8.) On January 25, 2015, an Order directing Plaintiff to provide his current address was sent to his last known address but was returned as undeliverable. (Doc. No. 8.)

Now, in excess of thirty days have passed and Plaintiff has not complied or otherwise responded to the Court’s Orders. The Court therefore recommends that this action be

dismissed without prejudice pursuant to Local Rule 5.5(c)(2).¹

IT IS THEREFORE RECOMMENDED that:

1. Plaintiff's Complaint (Doc. No. 2) be DISMISSED without prejudice.
2. All pending motions be DENIED as moot.
3. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting these recommendations would not be taken in good faith.

Dated this 12th day of March, 2015.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE

¹Local Rule of the Court 5.5(c)(2), states:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.